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NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

M.R., Petitioner, v. THE SUPERIOR COURT OF LOS ANGELES COUNTY, Respondent; LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, Real Party in Interest.	B209333 (Los Angeles County Super. Ct. No. CK64905)

ORIGINAL PROCEEDINGS in mandate. Valerie Skeba, Juvenile Court Referee. Petition denied.

Law Office of Timothy Martella, Los Angeles Dependency Lawyers, Eliot Lee Grossman and Renelde Espinoza, for Petitioner.

No appearance for Respondent.

Raymond G. Fortner, Jr., County Counsel, James M. Owens, Assistant County Counsel, and Byron G. Shibata, Associate County Counsel, for Real Party in Interest.

Kristen Balelo for Minors.

INTRODUCTION

Mother, M.R., contends that the court erred in terminating reunification services and setting a Welfare and Institutions Code section 366.26 hearing.[1] She contends that substantial evidence did not support the juvenile court's findings that reasonable reunification services had been offered, and that returning the children to the parents would create a substantial risk of detriment to their safety, protection, or physical or emotional well-being. Mother also contends that the court abused its discretion in rejecting her claim that her unique circumstances and special needs justified extending reunification services beyond 18 months. We conclude that substantial evidence supports the juvenile court's findings, and that the court did not abuse its discretion. We therefore affirm the order.

BACKGROUND

1. *Detention - September 2006*

On September 6, 2006, the juvenile court ordered siblings A.S. and H.S. detained after the Department of Children and Family Services (DCFS or Department) removed the children from their parents. In her report prepared for the detention hearing, the children's social worker (CSW) reported that in late

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[1] All further statutory references are to the Welfare and Institutions Code.

August 2006, she paid two visits to the family home to investigate an incident of domestic violence, and interviewed the family there.

During the first visit, on August 27, 2006, the CSW observed that the kitchen of the apartment was unkempt, there was little food, and mother's clothing and feet were dirty. During the interview, the CSW brought H.S.'s bad diaper odor to mother's attention, but one hour passed before mother changed the diaper.

Mother claimed that father did not provide her and the children with shoes or clothing, and was not helpful to her or affectionate with the children.[2] Mother told the CSW that a few days before, she had gone to father's place of employment, angry because father had not given her a birthday gift, but left when some women laughed at her. When father arrived home later, he pushed her into a closet when she attempted to take his keys away. Mother reported that father had choked her in the past, and approximately one month before, had pushed her so hard she fell into a baby swing. Mother stated that she was tired of father's cheating on her, and claimed that a security guard at father's workplace spied on him for her.

The older sibling, five-year-old A.S., told the CSW that he wanted to stab father with a knife because father hit mother. A.S. stated that father disciplined him by hitting him with a belt and pulling his ears. The CSW observed A.S. yelling at his sister and hitting her, and biting his mother and calling her stupid. Eighteen-month-old H.S. was too young to make a meaningful statement, but mother claimed that father disciplined H.S. by pulling her hair.

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[2] The CSW reported to the court that mother was a client of the Eastern Los Angeles Regional Center (Regional Center), and had been a foster child herself once, having been a victim of childhood sex abuse. "[R]egional centers assist persons with developmental disabilities and their families in securing those services and supports which maximize opportunities and choices for living, working, learning, and recreating in the community." (§ 4640.7, subd. (a).)

The CSW interviewed father, who admitted that he had pushed mother the day before, not intending to hurt her, but because she held him and kicked him while attempting to take his keys. He told the CSW that mother was the problem; that she constantly accused him of having affairs, although he worked two jobs, did his own laundry and cooking and had no time for affairs.

On August 30, 2006, during the second unannounced visit to the home, the CSW observed that mother had a neater appearance. She told the CSW that she had been cleaning the home and doing father's laundry, as he had requested. However, the CSW observed the home to be dirty. The stairs to the apartment had a urine smell, a bike and baby swing blocked the entrance to the apartment, there were several dirty dishes in the sink and the floor was sticky. H.S. was crying when the CSW arrived, and appeared to be hungry. The CSW noticed that the child had a soiled diaper, and asked mother to change it. Mother again complained about father, said he was mean to her and that she believed he was using drugs.[3]

During the August 30 visit, A.S. became hungry and attempted to cook an egg. When mother saw this, she yelled, "Let it alone can you just wait." Then A.S. heated soup in the microwave by himself, with his sister close enough to be burned had there been a spill. Mother was inattentive, making telephone calls in another room. Later, the CSW saw A.S. sitting on the sill of a window which led to the rooftop. The window had no screen, and A.S. sat with his legs outside. As mother appeared oblivious to the situation, the CSW intervened.

When the CSW told mother that the children would be placed in protective custody, mother grabbed A.S. and told him he would be leaving. When he began to cry, mother told him that this was necessary because she did not want to be

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[3] There is no evidence in the record of substance abuse by anyone.

killed as in the story she had heard of a woman who had been raped and killed by her husband.

The CSW also reported that after the children were removed from the home, she spoke to A.S. at the foster mother's home. A.S. told her he did not like living in his own home, because father and mother hit each other, and he was tired of father's abusing mother. He told the CSW that father had thrown both him and mother down the stairs, had hit mother with a bat and had called her "bad words." He also reported that father had slapped H.S. on her face.

On September 6, 2006, the juvenile court ordered the children detained, and set the jurisdictional hearing for October 3, 2006, to be preceded by a pretrial resolution conference.

2. *Jurisdiction/Adjudication -- October/November 2006*

On October 3, 2006, father pled no contest to an amended petition. Jurisdictional issues were not otherwise resolved, and the adjudication hearing was continued to October 20, 2006.[4]

In the Department's jurisdiction/disposition report, the CSW reported that she had interviewed the family again in September. Father and mother continued to live together. Mother denied that father hit the children or her, and claimed that she and A.S. fell down the stairs accidentally. Father denied that he hit mother or

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[4] The report summarized the parents' relevant history. Mother had been brought to the United States from Mexico by her mother after she had been raped and impregnated by a paternal uncle at the age of 12. The baby was detained at the age of three months and eventually freed for adoption, and mother was placed in foster care. A client of the Regional Center due to her mild mental retardation, mother had dropped out of high school, where she attended special education classes, and was illiterate in both English and Spanish. Father, also from Mexico, had been physically disciplined by his alcoholic father, who had also fought physically with his mother.

the children, and told the CSW that because he worked two jobs, he did not spend much time with the children or in helping mother.

During the September interview, A.S. stated to the CSW: "My daddy chokes me. My mommy was sleeping. The police have come to my house. I see my daddy hit my mommy." While saying this to the CSW, A.S. made a closed fist and hit his hand with it. He then said, "My mommy runs to the streets and then she comes home. Dad pulls [H.]'s hair. Daddy calls me stupid."

The court continued the adjudication hearing to November 16, 2006. On that date, the court sustained three counts of the petition, dismissing the others in the interest of justice. The court sustained the following allegations:

> "Count a-1 [pursuant to section 300, subdivision (a)]: On prior occasions, . . . father . . . has used inappropriate verbal and physical discipline with the children by conduct including but not limited to hitting with his hands and striking the child [A.S.] with a belt. Further, the children's mother was unable to prevent said inappropriate physical discipline by the children's father . . . .
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> "[¶] . . . [¶]
>
> "Count b-3 [pursuant to section 300, subdivision (b)]: The children have been exposed to verbal and physical altercations between their parents, including but not limited to their father pushing their mother, on one occasion resulting in mother falling against a baby swing. Such unresolved domestic violence between the children's parents places the children at substantial risk of harm.
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> "[¶] . . . [¶]
>
> "Count j-1 [pursuant to section 300, subdivision (j)]: On prior occasions, . . . father . . . has used inappropriate verbal and physical discipline with the children by conduct including but not limited to hitting with his hands and striking the child [A.S.] with a belt. Further, the children's mother was unable to prevent said inappropriate physical discipline by the children's father . . . ."

The court declared the children dependents of the juvenile court pursuant to section 300, and entered a disposition order. The court found that the Department had made reasonable efforts to enable the children to return home, but that the parents' progress in alleviating the causes for detention had been minimal. The court ordered the Department to provide reunification services. Mother was ordered to attend domestic violence classes and individual counseling, and to continue to work with the Regional Center. Father was ordered to attend a batterers' intervention program, parent education and individual counseling. Visits were to be monitored for both parents, with DCFS to have discretion to liberalize. The parents were to visit separately, until mother's individual therapist recommended joint visits. The court scheduled a progress hearing for February 15, 2007.

3. *February 2007 Six-Month Review*

On February 15, 2007, the CSW reported that the parents had been visiting the children together, and the visits were of poor quality, with minimal social or verbal interaction between the parents and children. The court again ordered the parents to visit the children separately. The matter was continued to April 6, 2007, for a status review hearing.

4. *April 2007 Status Review*

In April 2007, the CSW reported that the parents had completed a parenting course, and continued to attend the other court-ordered programs. Mother was receiving 50 hours per month of independent living skills training from GOALS.[5]

The CSW reported that the children had undergone medical examinations. H.S. was found to have language, socialization and motor delays, and was enrolled

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[5] GOALS was a service provider under contract to the Regional Center. Mother was assigned a GOALS advocate to assist mother in her training and to attend monitored visits.

as a Regional Center client. She was also diagnosed with failure to thrive -- inadequate weight gain -- and difficulty swallowing and chewing, which caused her to choke while eating. However, her physician reported that she had experienced "excellent weight gain in the new foster home." Because H.S.'s caregiver reported that she still exhibited some gorging and choking behavior while eating, the physician recommended careful supervision during meals.

The CSW reported that both children were doing well in placement, and were attached to their respective foster families. A.S. had no behavioral problems, and was doing well academically. Although A.S. told the CSW he wanted to return home to the parents, he also stated that he preferred to stay with his foster mother. A.S. and his counselor reported that A.S. often wet the bed after visiting father.

The parents visited the children weekly. Mother had improved in her interaction with the children, and was very affectionate with them during the visits. She brought toys for them, and engaged both children in conversation and play. However, mother continued to tell inappropriate stories and make random remarks. Father brought food and toys for the children, but there was minimal social or verbal interaction.

Mother and father continued to live together. Mother claimed that they no longer argued, but father reported that they were still having marital problems. Father reported that he could no longer control mother, and would not be responsible for her compliance with the case plan. The CSW concluded that the parents' relationship continued to be unstable, and although they were in compliance with the case plan, they had yet to demonstrate the ability to meet the children's physical and emotional needs. She reported that the children's planning assessments showed them both to be adoptable should reunification fail, and they

were referred to the Department's placement and recruitment unit for possible adoption placement.

On April 6, 2007, the court found that continued jurisdiction and out-of-home placement were necessary, although the parents had made significant progress and had demonstrated the capacity and ability to complete the objectives of the plan. The court found that the Department had provided reasonable reunification services, and scheduled a progress hearing for June 14, 2007, and a permanency review hearing pursuant to section 366.21, subdivision (f), for October 5, 2007.[6]

5. *June 2007 Progress Review*

Prior to the June 14, 2007 review hearing, the CSW reported that mother was two months pregnant, that she was no longer employed and that the parents had decided to remain together. Although father was still enrolled in a batterers' intervention program, and mother was still enrolled in her domestic violence course, the CSW did not think they demonstrated an understanding of the material. Mother told the CSW that she and father had "not had violence since he knows I'm pregnant." Father told the CSW, "'I did not abuse her[.] [T]his whole thing was made into something bigger.'"

The CSW reported that the parents continued to have weekly monitored visits with the children. The CSW observed that although the parents had completed parenting courses, and the quality of the visits had improved, they had difficulty addressing H.S.'s temper tantrums, and mother continued to have random unrelated discussions with the children. For example, during a quiet

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[6] The permanency review hearing marks the end of the 12-month reunification period. At that time, the court must return the child to the physical custody of the parents "unless the court finds, by a preponderance of the evidence, that the return of the child . . . would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child." (§ 366.21, subd. (f).)

period while the children were playing with toys, mother said to A.S., "[D]o you remember when your dad hit me[?] Well our neighbor has problems too." At times during visits, father discussed case details with A.S., and his social and verbal interaction with the children remained minimal. A.S. usually played independently, and did not respond to father's questions or directions.

On June 29, 2007, the Department provided the court with a supplemental review report, stating that it had found foster parents who would take both children, and who were interested in adopting the children should reunification fail. The children had been visiting each other weekly, and appeared to have bonded well.

The Regional Center reported that mother was receiving about 36 hours of independent living skills training per month. However, mother had not been able to obtain Regional Center funding for individual counseling and was waiting for a no-cost program.

6. *Twelve-Month Status Review -- October 2007*

In the Department's status review report, prepared for the October 5, 2007 permanency review hearing, the CSW reported that the children had been placed together with a prospective adoptive family. A.S. appeared to be adjusting well and developing appropriately, although he experienced behavioral problems after visiting his biological parents. H.S. was still a client of the Regional Center, and the foster parents had implemented a treatment plan to help her with language, socialization and motor development. Her eating habits had improved, and her gorging behavior had been resolved.

The CSW reported that father's participation in individual counseling had been sporadic and inconsistent. He was still enrolled in the batterers' intervention program, but continued to minimize his role in the domestic abuse, blaming mother for any violence. He showed no empathy for A.S. for having endured father's

physical abuse in the past. Mother had stopped individual counseling due to the cost, and had not yet resumed.

The parents continued to have separate monitored visits. The CSW reported that mother's interaction with the children was irregular, and father's interaction with the children was limited. The children often interacted with the DCFS monitor instead of the parents, and the monitor frequently had to prompt the parents to ask the children how they were, to interact with them, or to help A.S. with his homework. The parents were overfeeding H.S., and she became ill afterward.

The CSW reported that the children displayed no separation anxiety at the end of the visits, and A.S. was frequently impatient for the visit to end. A few days before the October 5, 2007 hearing, H.S. refused to come with the CSW, and cried when taken from her prospective adoptive parents. On the same occasion, A.S. stated that he did not want to reunify with his parents, "because I'm nervous that my dad will start hitting me again or hit my mom."

The court continued the permanency plan hearing to November 7, 2007.

7. *Permanency Review -- November 2007 through February 2008*

In November 2007, the CSW reported that between January and June 2007, mother had attended five individual therapy sessions, but the CSW had been unable to confirm mother's recent participation, because mother had missed two appointments with DCFS to discuss her case. Father continued in individual therapy, and had attended 42 sessions of the batterers' program. The Department's report included a declaration from the Regional Center stating that GOALS had increased mother's independent living instruction to 48 hours per month, and that mother was participating in individual and family counseling with a GOALS psychologist.

The CSW reported that the parents' interaction with the children during visits continued to be minimal, and despite A.S.'s requests, they did not assist the child with his homework. Further, the parents displayed a lack of regard for the children's safety during the visits. A.S. continued to show impatience for visits to end, and to express his fear of returning home. After visiting the parents, A.S. had episodes of bedwetting and nightmares, and H.S. had difficulty sleeping. The CSW reported that neither child appeared to be attached to the parents, and that H.S. had angrily refused mother's affection during the last visit. Neither child exhibited separation anxiety or other emotion at the end of the visits, and A.S. continued to express impatience for the end of the visits, stating that he wanted to go home with foster parents.

Prior to the November 7, 2007 hearing, the Department filed an ex parte application for an order terminating reunification services and suspending visits, except with the consent of the children. The Department recommended Evidence Code section 730 evaluations to determine the children's level of attachment to the birth parents and foster parents. In her declaration in support of the application, the CSW stated that the parents' interaction with the children during visits continued to be minimal, and the monitor continued to have to intervene to point out safety concerns. The CSW attached the monitor's notes, which reflected that the parents continued to bring inappropriate DVDs for the children to watch, such as, "Apocalypto."

The court apparently did not rule on the application, as no ex parte order appears in the record. On November 7, 2007, the court continued the permanency hearing to December 14, 2007, due to court congestion. At that time, mother requested a contested hearing, and the matter was continued to January 16, 2008.

On December 26, 2007, the Department detained the parents' third child, R.S., and placed her in foster care. R.S. had been born 22 days early, weighed only

five pounds and was jaundiced. In the Department's December 2007 detention report, the CSW indicated that the detention was based on R.S.'s condition, the facts which had brought A.S. and H.S. within the court's jurisdiction, as well as H.S.'s previous diagnosis of failure to thrive, and mother's continued denial that H.S. had such a medical condition. The court ordered R.S. detained January 2, 2008, set a pretrial resolution conference for February 13, 2008 and continued the permanency plan hearing for A.S. and H.S. to the same date.

In February 2008, the CSW reported that the parents continued to have separate monitored visits with the children. A.S. continued to be reluctant to visit and impatient for the visits to end, and neither child showed emotion when the visits ended. The CSW reported that A.S. did not want to visit his father. Once, when A.S. refused to approach his mother when she called him over, mother took the child's arm and attempted to pull him toward her. The CSW told mother not to pull the boy's arm, but when he pulled away, she took it a second time, and pulled while he resisted. Mother yelled at the CSW for intervening, insisting she was not hitting the child. Mother then yelled, "You just want to keep my babies you want to adopt them." The CSW asked mother to be calm and not discuss the case in front of the children, but mother kept yelling, claiming that her lawyer advised her to ask A.S. why he did not want to visit. A.S. began to cry and asked to go home to his foster family.

During the same visit, mother brought a bag with a Nintendo game which she had promised A.S. if he agreed to visit. When the CSW looked through the bag, she found father's medicine in it. Each parent blamed the other for leaving the medicine in the bag.

Just before the February 13, 2008 hearing, the Department filed last minute information with the court, attaching a letter from the Regional Center asking the court to order the assignment of a different CSW, due to a perceived conflict of

interest with mother, and requesting that the court allow a Regional Center appointee to be the sole court-ordered monitor. The Department opposed the request, because its monitor had reported that the Regional Center social worker had sometimes failed to intervene when mother acted inappropriately or when the children's safety was at risk during visits.[7] Further, the Regional Center had permitted the parents to visit jointly after the court had ordered separate visitation.

The court did not terminate family reunification services at the February 13, 2008 hearing. The court ordered visits to remain monitored, and permitted the Regional Center to provide a monitor. The court set an 18-month review hearing for April 9, 2008.[8] The court continued R.S.'s pretrial resolution conference to April 2, 2008, and on that date, set R.S.'s adjudication for April 9, 2008.

8. *Eighteen-Month Review -- April 2008*

In the Department's April status review report, the CSW reported that A.S. and H.S. appeared to be "extremely bonded" to their caregivers. Whenever H.S. was separated from them, she cried and pulled their clothing. The CSW reported that A.S. had been participating in organized sports leagues, and continued to do so. An adoption assessment was completed, and both children were found to be adoptable.

The CSW reported that the children's visits with mother and father continued to be separate and monitored, and that the parents failed to use any new parenting techniques in the visits. The CSW believed that the parents had failed to show that they could provide or maintain a safe environment for the children, or to demonstrate insight into the issues that had brought them to the attention of the

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[7] The person referred to as a Regional Center social worker was employed by GOALS. See footnote 4, *ante*.

[8] See section 366.22, subdivision (a).

court. The CSW noted that although the parents had completed their parenting courses, they had not demonstrated they could implement the information or techniques they were taught, and continued to have difficulty interacting with the children. A.S. was still reluctant to visit, and the children had refused to visit on two occasions.

The CSW reported that when she discussed with mother H.S.'s January 2006 medical diagnosis of failure to thrive, mother continued to deny that H.S. had ever had an eating problem. The CSW reported that gorging was a typical behavior of children diagnosed with failure to thrive, and that mother overfed H.S. during at least three visits, causing the child to vomit after the visits. On one occasion, when mother brought large cookies for the children, the GOALS worker told her to break them and give each child one-half. Mother disregarded the advice, and continued to give the children whole cookies. The CSW recommended that visits continue to be monitored. She recommended an updated psychological evaluation for mother, and a bonding study between both parents and the children.

Attached to the CSW's report was another letter from the Regional Center service coordinator asking that the court order the Department to assign a new CSW, claiming the CSW had a conflict of interest with mother, and scheduling conflicts making visitation difficult.[9] The service coordinator also claimed that A.S. showed reluctance to visit only when the CSW monitored the visits. The

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[9] Both Regional Center letters sought the assignment of a new CSW in place of N.G., the caseworker employed by the Department and assigned to manage the case and prepare the Department's reports. The CSW sometimes monitored visits. However, the regular DCFS-designated monitor was N.C., the foster care social worker (FCSW) who was employed by the Latino Family Institute, under a contract with DCFS. It is often unclear in the record to which social worker the Regional Center and the parties mean to refer.

CSW denied that any visits had been cancelled due to scheduling conflicts, or that she had a conflict of interest with mother.

On April 9, 2008, the court appointed an expert to assess mother's mental health and conduct a bonding study. The court calendared a contested section 366.22 hearing for June 4, 2008, with a pretrial resolution conference on April 23, 2008. On April 23, 2008, R.S. was adjudicated a dependent child of the juvenile court.

9. *Psychological Evaluation and Bonding Study*

In May 2008, the court received the psychological evaluation and bonding study. Tests were administered by psychologists, Drs. Crespo and DeCandia. Mother's test indicated she suffered depression, for which she had been prescribed Paxil. Tests also indicated mild mental retardation and possible self-centered and infantile expectations of other people. A survey of adaptive living skills showed moderate deficits. She read at a kindergarten level, with math skills at a second grade level, and required help shopping, calculating change and budgeting. However, mother was able to maintain her hygiene on her own, as well as cook meals and perform household chores, and she could use public transportation once she was shown the route.

Dr. Crespo found father understandably depressed due to his family circumstances. In his interview, father denied he had ever hit mother or A.S., although he admitted pulling his son's ears. He also denied he had been abused as a child, but then said that his father would sometimes get drunk and hit him. Dr. Crespo found father rigid in his expectations concerning children, perhaps due to a lack of knowledge about child development.

Dr. Crespo found that H.S. was affectionate toward both parents and her caregiver. H.S was comfortable with father, but more attached to mother, and whimpered when parted from her. Dr. Crespo could not give an opinion on the

strength of the bond with mother without evaluating the caregivers. A.S. was rejecting of both parents. He told Dr. Crespo he did not want to return to his birth parents, but wanted to remain with foster parents forever, "[be]cause they treat me nice."

Dr. Crespo recommended that the children remain with their prospective adoptive parents, where they appeared to be thriving, and recommended against returning them to their parents, "where a risk of neglect may be impossible to completely resolve." He could not recommend an open adoption without additional evaluations of the parents and the prospective adoptive parents.

10. *The section 366.22 Hearing*

On June 4, 2008, the court continued the section 366.22 hearing to July 8, 2008, and the hearing went forward on that date. In the Department's report prepared for the hearing, the CSW stated that the monitored visits had been expanded to three hours each, but that the parents had made little progress in their interaction with the children, and the DCFS monitor continued to have to intervene with safety concerns or to advise the parents to set limits. The monitor reported that the parents continued to demonstrate an inability to choose age-appropriate movies for their children to view.

The CSW also reported that although mother had previously admitted that domestic violence and physical abuse were the reason the family came to the attention of the court, more recently she denied it, claiming that A.S. had lied. Father appeared to display minimal acceptance of the domestic violence and physical abuse, and tended to blame mother and son.

In an interim review report filed shortly before the July 2008 hearing, the CSW reported that the children had been together with the same caretakers for a year, and were attached to them. The CSW reported that A.S. was doing "extremely well" with the foster parents and was attached to the foster family.

Although he was below grade level for his age when first placed with them, he was developing on target at the time of the report. The CSW reported that in the past year, H.S. had made significant progress in her physical, emotional and educational growth.

The FCSW, who monitored the parents' visits with A.S. and H.S., testified at the hearing.[10] Her duties included providing assistance to the foster parents, and visiting their home weekly to make sure they took appropriate care of the children. The FCSW testified that she had a good professional relationship with mother, and was unaware of any complaints mother had about her monitoring duties. The FCSW believed she treated mother in a cordial and respectful manner, and that mother acted appropriately with her. She also thought mother got along with DCFS staff members.

The FCSW testified that her primary concern was the children's safety, which had been an ongoing problem during visits since September 2007. She explained that when the children played rough, for example by throwing toys across the room too close to the children's faces, the parents did nothing to stop them. FCSW or the GOALS advocate had to step in to ensure their safety.

The FCSW testified that there had always been a GOALS advocate present during the visits that the FCSW monitored. It was the advocate who instructed the parents most of the time, while the FCSW intervened when the parents failed to address the children's unsafe play on their own. For example, in May 2008, the parents brought a water coloring book for the children. When mother began to paint her face with watercolor, the advocate told her it was inappropriate, because the water colors were not face paint, and could be toxic or cause an allergic reaction. Mother did not stop, and when the advocate stepped out of the room for

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[10] See footnote 9, *ante*.

some reason, mother began to paint A.S.'s face. The FCSW said to mother, "The advocate just told you it wasn't safe to do that. Could you just stop?" Still, it took her several minutes to stop.

The FCSW testified that later in May, the parents brought a volleyball -- a hard, professional one -- and played in the room, which was so small that it seemed the ball was flying everywhere, causing the advocate and the FCSW to have to dodge the ball to avoid being hit in the head. Although the ball hit H.S. twice, the parents continued to play. The FCSW told them they could not play with the ball, but they did not stop until the FCSW insisted.

The FCSW testified that on June 23, 2008, the parents brought an outdoor horseshoe set with long pointed plastic stakes, capable of gouging an eye. A.S. juggled them with father's encouragement, and neither parent asked him to stop. The advocate told father more than once, "Please, stop playing that way. You can get hurt," and gave him several reasons. The FCSW asked him to stop, as well, but he ignored both requests, until finally, the advocate physically took the sticks away from A.S.

The FCSW testified that on June 23, sibling R.S. participated in the visit; she was brought to the FCSW's office, with instructions that she needed to be fed at 4:00 p.m., and given her medication 20 minutes before that. After explaining the schedule, the advocate asked mother to repeat it. Mother was unable to answer and seemed confused. Later, father told her, "You should feed her at 3:40." Neither parent remembered to give R.S. her medication until 4:00 p.m., when the advocate prompted them. When mother fed R.S., she continuously became distracted and set down the bottle, until the baby fussed and the FCSW and advocate prompted her again. On July 7, the day before the hearing, mother again became distracted and stopped the feeding.

The FCSW testified that the parents sometimes overfed H.S. during their visits. They brought large amounts of food, sometimes healthy, sometimes not, like chips or cookies. Whenever H.S. finished her portion quickly and wanted A.S.'s share, the parents allowed her to take it. Occasionally, the parents failed to monitor how much H.S. ate, and gave in to tantrums when she wanted more, sometimes with the result that she complained of stomachaches. The FCSW and advocate had to remind the parents to set limits, and not to allow her to eat whatever she wanted. In March, the parents overfed H.S. after they had been informed that she had diarrhea, which turned out to be stomach flu.

The FCSW testified that on one occasion, mother sat at a table with H.S. in her lap, playing with a Play-Doh set mother had brought to the visit.[11] The set included a plastic knife, with which mother pretended to stab H.S. in the stomach and to slice her hand. In turn, H.S. took the knife and pretended to stab father in the back. Mother, H.S. and the advocates laughed, but the FCSW was of the opinion that H.S. was incorporating the learned violence into her play, and that the advocate should have intervened to instruct mother to play appropriately with the Play-Doh.

The FCSW testified that she continued to have safety concerns due to the parents' failing to set limits or to explain how to play with toys appropriately. The FCSW testified that she or the advocate intervened approximately seven to 10 times every visit to call safety issues to the parents' attention and to redirect them. By the time of the hearing, the parents visited the children together, and father occasionally redirected mother. The parents spoke little to each other during visits, and sometimes they both ignored A.S. when he asked for help with his homework,

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[11] The FCSW's notes indicate that the Play-Doh incident occurred in April 2008.

or they were unable to read the material.[12] Occasionally, A.S. refused to attend the visits.

The FCSW stated that she believed the children would be at risk both physically and emotionally if returned to their parents. She testified that A.S. had thrived since she met him and his personality had changed dramatically for the better, but the parents rarely praised or encouraged him. While not intentionally ignoring the child, their parenting skills appeared limited. They attempted to play with the children, but they did not set limits or boundaries, and did not know how to control or discipline them. For example, mother threatened to give A.S. a time-out once, but did not follow through. When A.S. responded, "I don't have to listen to you," the FCSW and advocate corrected him,. Lacking the skills to deal with their children's misbehavior, the parents did not take the initiative, but rather, asked the advocate for help.

The FCSW testified that during the visits, father had minimal conversation with the children, but occasionally talked about the toys or video games they were playing with. Mother sometimes told elaborate, confusing stories about things that had happened to family members. One was very violent -- someone had been hit with a machete and there was blood everywhere. The FCSW and advocate intervened and told her it was inappropriate to tell the children such stories. Similarly, when A.S. was doing his homework or reading, mother sometimes interrupted him with an "off-the-wall" statement, such as, "Look at my elbows." Mother's conversations with A.S confused him, and he either ignored her or asked the advocate to explain.

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[12] The FCSW's notes describe an incident in May 2008, when A.S. brought a flute from school and played "Mary Had a Little Lamb." The FCSW and advocate both clapped and praised him, but parents merely stared at him without saying a word. A.S. appeared to notice his parents' lack of reaction, and put the flute away.

The court also heard testimony from the mother's GOALS advocate. The advocate testified that she had been mother's advocate for 10 months, and that she had attended mother's visits for six months. The advocate taught mother to become more independent, and assisted her in meeting her healthcare needs by providing transportation to mother's doctor and psychiatrist. The advocate testified that mother had not been afforded one-on-one parenting classes until recently, but stated that her feedback to mother about parenting as she interacted with the children during visits was, in essence, parenting instruction. The advocate believed that she helped mother to learn by telling the children to stop inappropriate play and explaining why they should stop. After visits and classes, the advocate reviewed with mother the actions she should have taken.

The advocate testified that although mother had made progress, and in her opinion, was capable of caring for the children, there had been misunderstandings with the social worker. The advocate claimed that the CSW would "nitpick," until mother was afraid to go to the visits.[13] She denied there had been safety issues, and claimed that the reason she had told A.S. not to play with the ball was because the room was too small. Although the advocate had seen mother threaten a time-out without enforcing it, she claimed that the visits were not long enough for her to do so.[14] She also observed mother pick H.S. up whenever she had a tantrum.

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[13] Moments before, the advocate recounted an incident in which mother had argued in front of A.S. with the CSW, who sometimes monitored visits. It is unclear whether the advocate's "nitpicking" allegation was meant to refer to the CSW or to the FCSW. In her petition, mother assumes she meant to refer to the behavior of both social workers. In any event, as we discuss below, the court found the advocate's testimony unconvincing.

[14] The visits had been expanded to three hours approximately three months before the hearing.

The advocate testified that mother's relationship with H.S. was very good, but that A.S. was distant. He occasionally resisted mother's affection, moved away from her and resented her speaking in Spanish. Father was more bonded to A.S. than H.S. However, the advocate believed the family interacted positively, and she did not believe mother's disabilities would adversely affect her parenting if she continued one-on-one parenting instruction.

The advocate claimed that mother had been able to care for her nephew and niece, who were two and three years old, and sometimes had them overnight, cooking appropriate meals for them, and diapering them. However, the advocate admitted that she not seen mother with the children, and that mother had provided this information.

Mother's testimony was short. She testified that H.S. cried whenever she wanted something, and to get her to stop crying, mother hugged her, played with her or looked at a book with her. She testified that she told H.S. not to put things into her mouth, because she could hurt herself and might end up at the hospital.

Closing arguments were submitted in writing. The Department asserted that the children could not be safely returned to the parents. The children's counsel joined in the Department's position.

11. *The Section 366.22 Findings and Orders*

On July 11, 2008, the court orally pronounced its findings. The court found that the conditions that originally justified jurisdiction still existed, and ordered that the children remain dependents of the juvenile court. The court found by a preponderance of the evidence, but stated that it could have found by a higher standard, that return of the children to the parents' custody would create a substantial risk of detriment to the children's physical and emotional health and safety. The court found that the parents had technically complied with the requirements of the case plan, and reasonable efforts had been made to eliminate

the need for further removal, but they had not benefitted from the services offered. The court terminated family reunification services. Visits were to remain monitored.

The court explained its findings in detail. The court gave great weight to the FCSW's testimony, which it found neutral and specific. The court believed that she had genuinely tried to help the parents by giving them an opportunity to demonstrate any parenting skills they had learned, and intervening only when they failed to do so.

The court gave the advocate's testimony little weight. Her testimony regarding mother's caring for her niece and nephew was "very misleading and very suspect." Her demeanor and attitude indicated an intent to promote the parents by unduly blaming the Department.

The court did not believe that the parents were able to parent young children full time, particularly three-year-old H.S. Although A.S. was a bit older, he did not "have much of a relationship with the parents." The court noted the parents' argument that the Department did not provide reasonable reunification services, but found that further reunification services would not benefit the parents. The court also noted the parents' argument that the Department should have referred them earlier to a particular program for individual parenting instruction. The court found it highly speculative, however, that a referral would have made a difference, because the FCSW's and the advocate's assistance and instruction during visits gave the parents all the one-on-one parenting instruction such a program would have provided. The court found that the parents "really got a lot of good services that a lot of people do not get," and concluded that other services would not have helped any further.

With respect to the parents' complaint that they were unhappy with the visitation room and length of visits, the court noted that no one had brought the

problems to its attention. The court stated that had it been aware of the problems, it would have ordered a change.

The court's orders and findings were entered in the minutes and filed July 11, 2008. On July 15, 2008, mother timely filed a notice of intent to file a writ petition, and thereafter filed her petition for extraordinary writ August 7, 2008. We issued an order to show cause, and real party DCFS filed an answer to the petition. The children joined in real party's answer.

DISCUSSION

1. *Contentions*

Mother contends that the juvenile court erred in terminating reunification services and setting a section 366.26 hearing. She contends there was insufficient evidence to support the juvenile court's findings that reasonable services had been provided, and that returning the children to their parents' custody would create a substantial risk of detriment to the children's safety, protection or physical or emotional well-being. Mother also contends that her unique circumstances -- her mild mental retardation and need for specialized services -- justify extending reunification services beyond 18 months.

2. *Substantial Evidence Standard of Review*

"In juvenile cases, as in other areas of the law, the power of an appellate court asked to assess the sufficiency of the evidence begins and ends with a determination as to whether or not there is any substantial evidence, whether or not contradicted, which will support the conclusion of the trier of fact. All conflicts must be resolved in favor of the respondent and all legitimate inferences indulged in to uphold the verdict, if possible. Where there is more than one inference which can reasonably be deduced from the facts, the appellate court is without power to substitute its deductions for those of the trier of fact. [Citation.]" (*In re Katrina C.* (1988) 201 Cal.App.3d 540, 547.)

"Under this standard of review we examine the whole record in [the] light most favorable to the findings and conclusions of the juvenile court and defer to the lower court on issues of credibility of the evidence and witnesses. [Citation.] We must resolve all conflicts in support of the determination and indulge all legitimate inferences to uphold the court's order. Additionally, we may not substitute our deductions for those of the trier of fact. [Citations.]" (*In re Albert T.* (2006) 144 Cal.App.4th 207, 216.)

"It is the trial court's role to assess the credibility of the various witnesses, to weigh the evidence [and] to resolve the conflicts in the evidence. We have no power to judge the effect or value of the evidence, to weigh the evidence, to consider the credibility of witnesses or to resolve conflicts in the evidence or the reasonable inferences which may be drawn from that evidence. [Citation.] Under the substantial evidence rule, we must accept the evidence most favorable to the order as true and discard the unfavorable evidence as not having sufficient verity to be accepted by the trier of fact. [Citation.]" (*In re Casey D.* (1999) 70 Cal.App.4th 38, 52-53.)

"'Substantial evidence' means evidence which is reasonable, credible, and of solid value. . . . [Citation.]" (*In re Yvonne W.* (2008) 165 Cal.App.4th 1394, 1401.) It is the burden of the party challenging the sufficiency of the evidence to show there is no evidence of a sufficiently substantial nature to support the finding or order of the juvenile court. (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.)

3. *Reasonable Reunification Services*

At the 18-month review hearing, the court must determine whether reasonable services were offered or provided to the parent, and if the court does not order the return of the children to the parents, it must terminate reunification services. (§ 366.22, subd. (a).) "In almost all cases it will be true that more services could have been provided more frequently and that the services provided

were imperfect. The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances." (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.)

Mother contends the services were unreasonable, considering her mild mental retardation, illiteracy and minimal mathematical skills. She argues that the Department should have provided literacy training, instruction in basic math and personalized parenting instruction.

"Reunification services need not be perfect. [Citation.] But they should be tailored to the specific needs of the particular family. [Citation.] Services will be found reasonable if the Department has 'identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the parents during the course of the service plan, and made reasonable efforts to assist the parents in areas where compliance proved difficult . . . .' [Citation.]" (*In re Alvin R.* (2003) 108 Cal.App.4th 962, 972-973.)

It was not mother's illiteracy or minimal math skills that led to the removal of her children, but rather, safety issues. The parents' physical altercations and father's physical abuse of A.S. and H.S. posed a danger to the children's physical and emotional health. Substantial evidence supports the court's conclusion that the services provided to eliminate that risk were reasonable. Indeed, they were substantial. Mother completed a 26-week course in domestic violence in August 2007, a 100-hour distance learning program for parents in October 2006 and 45 hours of parent education classes in February 2007. Further, mother was already a client of the Regional Center when the petition was filed, and received approximately 30 to 58 hours per month of independent living skills training, which continued throughout the reunification period.

Mother's contention that services were unreasonable without individual parenting instruction was considered by the juvenile court, which found that

mother had been afforded as much individual instruction in the monitored visits as she would have obtained from a referral to a special program offering individual parenting instruction. Indeed, the GOALS advocate agreed with the court's finding on this point. She testified that mother had been, in essence, afforded one-on-one parenting education through her own feedback during and after the visits.

Mother also contends that the visits were "sabotaged . . . by constant nitpicking and unnecessary intervention which disrupted the visits, intimidated and unsettled [mother], making her fearful of visiting, and portray[ing] [her] negatively to her children."[15] What mother dismisses as "nitpicking," the court found to be appropriate individual parenting instruction. The term itself was the advocate's, to whose testimony the court gave little weight. In contrast, the court gave great weight to the FCSW's testimony, and believed that she intervened only when necessary and in a genuine effort to help the parents. Moreover, while the advocate testified that mother was afraid to go to the visits, the FCSW testified that she had a harmonious professional relationship with mother, and was unaware of any complaints.[16] We have no power to give a different weight to the testimony. (*In re Casey D.*, *supra*, 70 Cal.App.4th at pp. 52-53.)

Further, the court reasonably inferred that the FCSW's advice was appropriate, given the many instances of mother's failure to intervene when the children's physical and emotional safety was threatened from flying balls, sharp stakes, imaginary violence and violent movies, or mother's arm pulling, leaving adult medicine in reach of A.S., overfeeding H.S., nurturing H.S.'s tantrums,

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[15] See footnote 13, *ante*.

[16] Mother did not testify that she was afraid to go to the visits or that she was intimidated by the FCSW.

failing to set limits or impose appropriate discipline, telling inappropriate stories and insisting upon attention while A.S. attempted to read or do homework. We have no authority to reject the court's reasonable inferences in favor of the advocate's opinion that the FCSW's advice amounted to "nitpicking." (*In re Albert T.*, *supra*, 144 Cal.App.4th at p. 216; *In re Katrina C.*, *supra*, 201 Cal.App.3d at p. 547.)

Mother contends that reunification services were unreasonable for the additional reason that the length of her visits was unduly short until the final reunification period, and unnecessarily confined to a "tiny" room.[17] The party challenging a finding of reasonable reunification services bears the burden to show that no substantial evidence supports the court's finding. (*In re Dakota H.*, *supra*, 132 Cal.App.4th at p. 228.) That burden is not met by claiming that a specific additional service should have been provided, but by showing that under the circumstances, considering all the services provided, the services were inadequate. (See *In re Misako R.*, *supra*, 2 Cal.App.4th at pp. 546-547 [rejecting claim that visits were insufficiently frequent to support finding that services were reasonable].) Moreover, mother has not referred to any facts in the record showing

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[17] The court pointed out that mother did not complain about the location and length of visits until trial, and real party contends that mother has forfeited this contention by failing to raise it earlier. Mother contends that she did not forfeit the issue, arguing that requiring a request for longer visits and a better location would relieve the Department's burden to prove, by clear and convincing evidence, that it had provided reasonable services. We do not reach the issue of forfeiture, because we reject mother's suggestion that the size of the room shows that the reunification services were unreasonable. Further, while the heightened standard of proof is required at the six-month and 12-month review hearings, the standard at the 18-month hearing is a preponderance of the evidence. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 594-596 [at 18 months, the child's well being, not reunification, becomes paramount].)

that the room was "tiny," as opposed to simply too small to play ball. Nor has she referred to any evidence that would have shown the length of the visits to be unreasonable. We conclude that mother has not met her burden.

4. *Detriment Finding*

Mother contends that the evidence was insufficient to support the court's finding that returning the children to the parents would create a substantial risk of detriment. At the 18-month review hearing, the court must "order the return of the child to the physical custody of his or her parent . . . unless the court finds, by a preponderance of the evidence, that the return of the child to his or her parent . . . would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child." (§ 366.22, subd. (a).)

Mother argues that the detriment finding was error, because she had completed all her court-ordered programs, and the Regional Center asserted that she had made "exceptional progress." She also points to the testimony of the GOALS advocate that she was capable of caring for her children and that there would be no risk of harm to them in her custody. Further, mother argues, evidence that A.S. did not want to return home was contradicted by the advocate. Mother also asserts that she had a positive and affectionate relationship with H.S., and cites the advocate's testimony that mother frequently gave the baby her medicine correctly.

As noted, the juvenile court found the advocate's testimony unpersuasive and gave it minimal weight. We have no power to reweigh the evidence, to reconsider the advocate's credibility, or to resolve conflicts in the evidence. (*In re Casey D., supra*, 70 Cal.App.4th at pp. 52-53.) Indeed, we must reject evidence that contradicts the evidence relied upon by the court, as having insufficient "verity to be accepted by the trier of fact. [Citation.]" (*Id*. at p. 53.)

Overwhelming evidence not cited by mother supports the court's finding of detriment. The parents demonstrated little insight into the issues that had brought them to the attention of the court. Father pled no contest to the allegation that he used inappropriate verbal discipline, struck both children with his hand and hit A.S. with a belt. However, despite individual therapy and 42 sessions of the batterers' intervention program, he displayed minimal acceptance of the domestic violence and physical abuse, instead blaming mother and A.S. The CSW reported that he showed no empathy for A.S. for having endured father's physical abuse. As late as May 2008, in his psychological evaluation, father denied having hit A.S. Mother completed a 26-week domestic violence course. However, the CSW reported in June 2008 that mother recanted her statements regarding domestic violence and physical abuse of A.S., and that she claimed A.S. had lied about the abuse. Thus, as the court found, although both parents completed court-ordered programs, they did not benefit from them.

Further, despite guidance by the FCSW and the GOALS advocate, the parents never learned to safeguard the children's physical and emotional safety during visits, allowing inappropriate play with a hard volleyball and sharp stakes, joining in an imaginary game of violence, bringing age-inappropriate movies, leaving adult medicine in A.S.'s reach, overfeeding H.S., nurturing H.S.'s tantrums, failing to set limits or impose appropriate discipline and telling inappropriate stories. In short, as the CSW reported, the parents failed to demonstrate they could implement the information or techniques taught in the parenting classes or in the visits.

We conclude that substantial evidence supports the juvenile court's finding that returning A.S. and H.S. to the parents "would create a substantial risk of detriment." (§ 366.22, subd. (a).)

5. *Extension of Reunification Services Beyond 18 Months*

Mother contends that the family's unique circumstances justified the extension of reunification services beyond 18 months. She contends that the circumstances justifying further services include her affectionate bond with her children, the exceptional effort she made to comply with her case plan despite her mild retardation and illiteracy, and the lifetime services the Regional Center will provide to help her care for her children. She also contends that the monitoring agency sabotaged her bond with her children by harassing and "nitpicking" her during visits.

Unless the dependent child is returned to the parents at the 18-month review, the court must terminate reunification services. (§ 366.22, subd. (a); see § 361.5, subd. (a).) At that time, the focus of a dependency proceeding shifts away from the goal of reunification to the child's need for permanency and stability. (*In re Stephanie M.* (1994) 7 Cal.4th 295, 317.) However, the juvenile court has discretion to extend family reunification services beyond the 18-month statutory limit in a special needs case where services were inadequate or extraordinary circumstances beyond the parents' control prevented their participation in the case plan. (*Andrea L. v. Superior Court* (1998) 64 Cal.App.4th 1377, 1388.)

In exercising its discretion to extend services beyond 18 months, the court should consider the likelihood of success of additional reunification efforts, and whether the probable benefit to be gained from further services outweighs the child's need for a prompt resolution of his or her status. (*In re Daniel G.* (1994) 25 Cal.App.4th 1205, 1217.) At the 18-month review stage, the child's need for stability and security becomes paramount over the policy favoring reunification, unless the record shows that the reunification plan or its execution was so inadequate to accommodate the family's unique hardship, that the special needs parent was denied the opportunity to maintain visitation and an ongoing

relationship with his or her child. (*In re Elizabeth R.* (1995) 35 Cal.App.4th 1774, 1788-1791.)

A discretionary decision of the juvenile court "should not be disturbed on appeal unless an abuse of discretion is clearly established. [Citations.] . . . '"[A] reviewing court will not disturb that decision unless the trial court has exceeded the limits of legal discretion by making an arbitrary, capricious, or patently absurd determination [citations].'" [Citations.] . . . 'The appropriate test for abuse of discretion is whether the trial court exceeded the bounds of reason. . . .' [Citations.]" (*In re Stephanie M., supra,* 7 Cal.4th at pp. 318-319.)

We have been presented with no basis to find the court's decision was arbitrary, capricious, or patently absurd, or that it exceeded the bounds of reason. (See *In re Stephanie M., supra,* 7 Cal.4th at pp. 318-319.) The court found that reasonable services had been provided, that the parents had not benefitted from the services offered, that it was highly speculative that a referral to an individualized parenting program would have made a difference, and that no additional services would help the parents. Thus, the court considered the appropriate factors. (See *In re Elizabeth R., supra,* 35 Cal.App.4th at pp. 1788-1791; *In re Daniel G., supra,* 25 Cal.App.4th at p. 1217.) We have held that substantial evidence supports the court's finding that considering mother's circumstances, the services were reasonable. We have declined mother's request that we reweigh the evidence in order to disagree with the court's rejection of her claims and its finding that A.S. did not have a strong relationship with either parent. We conclude that the court did not abuse its discretion in denying an extension of reunification services.

DISPOSITION

The order to show cause is discharged and the petition for extraordinary writ is denied.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.

MANELLA, J.

We concur:

EPSTEIN, P. J.

SUZUKAWA, J.